



December 26, 2008

*Sent via Email and U.S. Mail*

Travel Management Team  
Tahoe National Forest  
631 Coyote Street  
Nevada City, CA 95959  
Attn: David Arrasmith

Re: Comments on Draft Environmental Impact Statement for Motorized Travel Management

Dear Travel Management Team:

These comments are submitted on behalf of the BlueRibbon Coalition (BRC), a national non-profit trail-based recreation group, and are directed to the Draft Environmental Impact Statement (DEIS) for Motorized Travel Management on the Tahoe National Forest. This document shall not supplant the rights of other BRC agents and organizational or individual members from submitting their own comments and the agency should consider and appropriately respond to all comments received to the DEIS.

BRC generally supports the concept of the agency designating roads, trails, and areas for off-highway vehicle (OHV) use with public input in the decision-making process. As you know, the Tahoe National Forest is used year-round by OHV enthusiasts, mountain bikers, equestrians, hunters, fishermen, bird watchers, snowmobilers, hikers, woodcutters, and explorers. BRC appreciates the effort by the Forest via numerous public meetings to explain certain tenets of the DEIS to interested parties in an effort to assist said interests in the formulation of their comments. BRC continues to encourage the public to send in site-specific and other related comments regarding this process.

BRC also thanks the Forest for several meetings where we discussed the development of Alternative 5 which was supposed to be based on our comments to the NOI/Proposed Action.

As you know, BRC is concerned the agency at several public meetings may have inadvertently conveyed to attendees that BRC approved and supported the Forest's **interpretation** of our BRC Alternatives E and F which had key concepts that the DEIS failed to functionally incorporate in Alternative 5.

Those key concepts are listed below:

## **RAINFALL BASED CLOSURES**

1 - *BRC also supports the development and implementation of appropriate wet weather seasonal closures – **based on specific rainfall amounts collected by NOAA approved rain gauges** - to motorized and non-motorized use to reduce damage to trail and road beds.*

DISCUSSION: Both in our NOI comment letter and during our two meetings, BRC encouraged the Forest to review the rainfall-based closure criteria used at other destination OHV areas including Upper Lake, Cow Mountain, and Stonyford. BRC believes that area-specific rainfall-based closures are preferable where appropriate to time-based seasonal landscape level or forest-wide closures. Rainfall-based closures are appropriate and necessary management tools for OHV areas that are part of the state-wide "OHV destination area matrix." They are also appropriate prescriptions for lower elevation routes more closely associated with dispersed OHV recreational uses.

Users can access NOAA rainfall measurements at:

<http://www.wrh.noaa.gov/mesowest/mwmap.php?map=sto>

The use of the internet by users to access rainfall information has been the key to the success of said prescriptions at Upper Lake and Stonyford. BRC believes that use of the internet by the FS at the Foresthill OHV Area will play a significant role in the success of the program.

## **DESIGNATION OF USER ROUTES**

2- User Routes in BRC's Proposed Alternative's E (existing use) and F (future use)

### **ALTERNATIVE E**

- *Designate at minimum all of the system or facility roads and trails receiving current OHV use unless the individual route is causing a "considerable adverse effect." Designate a **significant number** of important and historic user-created routes as identified by the public. If a considerable adverse effect is found, review for mitigation (reroute, maintenance, closure, etc.). Focus on closures of redundant routes or*

*routes causing a considerable adverse effect or routes that have little recreational value.*

## ALTERNATIVE F

- *Designate at minimum all of the system or facility roads and trails receiving current OHV use unless the individual route is causing a "considerable adverse effect." Designate **the maximum number** of important and historic user-created routes as identified by the public. If a considerable adverse effect is found, review for mitigation (reroute, maintenance, closure, etc.). Focus on closures of redundant routes or routes causing a considerable adverse effect or routes that have little recreational value.*

DISCUSSION: During both the scoping process and at the public DEIS meetings, the agency related to the attendees that the Forest has approximately 1,400 miles of historic user routes that do not transect or end at private property where inholders do not want OHV use. In Alternative 5, the agency only identifies 282.8 miles of user routes brought forth to the Forest – **by local or state organizations such as the High Sierra Motorcycle Club, CERA, Friends of Foresthill, CORVA, AMA D36, Friends of Greenhorn, Friends of Fordyce, Friends of Tahoe Forest Access, CA4WDC, Friends of the Rubicon, etc.** - as important OHV opportunities. BRC believes the agency has overlooked a significant number of user identified routes; and, that the number of miles of motorized trails added to the National Forest Transportation System should be significantly higher in Alternative 5.

Any designation process must fully comply with the Final Rule addressing Designated Routes and Areas for Motor Vehicle Use. 70 Fed.Reg. 68264 (Nov. 9, 2005). Numerous principles addressed in this Final Rule will affect both the procedure and substance of the Tahoe's designation process. In particular, BRC again emphasizes the necessity of considering public input on existing and/or uninventoried routes, the potential legitimacy of including uninventoried or "non-system/unauthorized" routes in the formal designation process, and the discretion to allow cross-country travel where appropriate. The Forest Service's Strategic Communication Plan, released in conjunction with the Final Rule, makes it clear that each route must be considered on its "own merits," and clarifies that while some "non-system" or "user-created" routes may not be appropriate for formal designation, "[s]ome user-created routes are well-sited, provide excellent opportunities for outdoor recreation, and would enhance the system of designated routes and areas." Strategic Communication Plan at 16 (Q&A #6). The SCP and related provisions of the Final Rule makes it clear that the Tahoe shall evaluate the designation of - and should arbitrarily ignore - the designation of routes for travel that are labeled as "non-system or user-created."

## **OPEN AREAS**

*3 - Designate certain small areas (OHV destination areas, major ridge line fuel breaks, rock pits, etc.) as open areas to better allow for active trail management and fuel management...*

DISCUSSION: Both in our NOI comment letter and our two meetings to discuss the development of Alternative 5, BRC strongly supported the designation of open areas including the Eureka Diggings, Prosser Pits and other areas. Ideas discussed included the designation of an area as Open with “use limited to existing routes” where ATV and side-by-side use would be encouraged to areas where cross-country travel was a designated use. BRC believes that Alternative 5 - by only designating the less than 100 acres at Prosser Pits as “Open” - did not accurately interpret the tone and direction of the aforementioned communications.

## **EXPERT LEVEL SINGLE TRACK OR SLOW SPEED 4WD OPPORTUNITES**

*4 - Review the recreational value of OHV routes including expert level (double or triple black diamond) single-track motorcycle trails or slow speed 4WD rock crawling in a regional perspective.*

DISCUSSION: BRC requests the agency to again review site-specific comments submitted by local interests regarding the inclusion of historic expert level user created (these sometimes include routes built or authorized by the FS) motorcycle or 4WD routes. BRC believes the agency may not appreciate said routes in a regional context where the Forest currently affords the public a unique high-quality expert level trail experience not found elsewhere in Region 5. Implicit in our NOI comments regarding 4WD opportunities should also be the agency’s ability to provide for some level of winter snow 4WD recreation. BRC understands the management challenges of such snow-based wheeled recreation. However, in a regional context such 4WD recreation is an important and historic feature of the Forest.

BRC supports agency efforts to include selected maintenance level 1 (currently closed to public use) forest roads for OHV use and selected maintenance level 3, 4, and 5 forest roads for mixed use. BRC believe mixed use designations are a key element to successful implementation – and public acceptance - of the program.

For decades in California, historic public use of private lands for recreational activities has been a critically important factor in the land-use equation.

According to the **Safe Trails Forum**

<http://www.americantrails.org/resources/safety/LiabilityCA.html>

at the 15<sup>th</sup> *National Trails Symposium*, Redding California, September 21-24, 2000, the Courts and Legislature have expressed a clear policy to permit the use of available recreational property, both public and private, in its natural condition, without placing the burden and expense of altering the property and defending claims for injuries on the land owner. This immunity applies to access roads and trails and those used for the recreational activity themselves.

BRC thanks the Tahoe National Forest for not arbitrarily rejecting all popular and historic OHV routes simply because segments of it end or transect private property and where the agency has valid existing rights including valid outstanding or reserved rights-of-way. To do so could be denying the public explicit or implicit access rights conferred on them by the state legislature (and held up by courts) to encourage the private land owner to allow public use of said land for recreational purposes.

BRC thanks the Tahoe National Forest for not arbitrarily rejecting all popular OHV routes because it is in an "inventoried roadless area." In recent court proceedings regarding the reinstatement of the 2001 Roadless Rule – *The Wilderness Society v. United States Forest Service* - the Wilderness Society successfully argued before the court ... *"The Roadless Rule does not close any existing vehicular routes (ORV or otherwise) in any National Forest roadless areas...the Roadless Rule prevents only road construction or reconstruction and timber cutting, sale, or removal in inventoried roadless areas..."* Hence, the Roadless Rule should not be used to decide if OHV routes are or are not designated in inventoried roadless areas.

BRC thanks the Tahoe National Forest for designating additional level 3-5 roads for mixed use designations. BRC believes mixed use designations are a key component for successful implementation of the program. Mixed used routes often connect up various trails and staging areas or act as an OHV transportation corridor. BRC believes that Region 5 continues to wrongly discourage Forests from mixed use designations via a number of additional "regulatory or memo-directed" bureaucratic hurdles.

BRC believes the agency should continue to fully embrace the concept of converting "roads-to-single track trails" or "roads-to-motorized trails less than 50 inches in width" and "roads managed as motorized trails greater than 50 inches in width" as a tool to help it achieve its budget objectives while still providing a substantive recreational route network.

BRC thanks the agency for analyzing and disclosing the environmental benefits of eliminating motorized cross-country travel and restricting said use to designated roads, trails, and areas. It appears all action alternatives have varying degrees of substantive benefits to soil, flora, and fauna.

Based on our review of the DEIS -- with a revised Alternative 5 that more accurately reflects key access tenets of BRC's Proposed Alternatives E and F in the NOI comment letter, and in response to member input -- BRC believes a modified/updated Alternative 5 with the following revisions should be created and submitted for full analysis and public input in the FEIS. We do not herein attempt an exhaustive outline of a modified/updated Alternative 5 (or modified Alternative 6), however, a modified/revised Alternative 5 (or modified Alternative 6) should consist of, but not be limited to, the following concepts.

### **1 - FORESTHILL OHV AREA**

Designate the OHV trails in the Foresthill OHV Area as "Open All Year" and use the rainfall-based closure criteria similar to the Rock Creek/Georgetown OHV Area or at the Upper Lake/Stonyford OHV Area or the BLM's Cow Mountain Recreation Area -- with a direct reference to a specified NOAA gauge which automatically reports internet accessible real-time rain measurements.

<http://www.fs.fed.us/r5/eldorado/about/regs/orders/ohv/>

#### **Rock Creek Recreational Trails (wet weather closure):**

The following acts are prohibited, effective January 11th through April 30th of each year when an order is in place:

(1) Using any vehicle on any forest development trail within the Rock Creek Recreational Trail Area. **261.55(b)**

(2) Being on any forest development trail within the Rock Creek Recreational Trail Area using any equine or other livestock. **261.55(c)**

**Note:** During the Winter season as we get a total of 1.5" of rain or snow, we automatically close our Rock Creek trails. We allow 48 hours drying time in order to re-open. The order number changes for every closure.

OR

### **Mendocino National Forest**

<http://www.fs.fed.us/r5/mendocino/recreation/ohv/guidelines/#close>

Use of any off-highway vehicle or other vehicle off-highway vehicle or other vehicle on any forest development trail after receiving 2 inches of or more of rainfall in the preceding 24-hour period. The period of closure will be in effect until there has been 48 hours of NO measurable precipitation. (36 CFR 261.56)

**DISCUSSION:** The Foresthill OHV Area is an important element in the state-wide destination OHV area matrix. BRC believes the tone and direction of stakeholder negotiations and also the explicit language in SB742 places a high import on managing existing OHV opportunities for public use.

SECTION 1. Section 5090.02 of the Public Resources Code is amended to read:

5090.02. (a) The Legislature finds all of the following:

(1) Off-highway motor vehicles are enjoying an ever-increasing popularity in California.

(2) Off-highway recreation includes both motorized recreation and motorized off-highway access to nonmotorized recreation activities.

(3) The indiscriminate and uncontrolled use of those vehicles may have a deleterious impact on the environment, wildlife habitats, native wildlife, and native flora.

(b) The Legislature hereby declares that effectively managed areas and adequate facilities for the use of off-highway vehicles and conservation and enforcement are essential for ecologically balanced recreation.

(c) Accordingly, it is the intent of the Legislature that:

(1) Existing off-highway motor vehicle recreational areas, facilities, and opportunities should be expanded and managed in a manner consistent with this chapter, in particular to maintain sustained long-term use.

BRC believes that managing the Foresthill OHV Area (most trails are at the 3,000ft to 3,800ft. elevation) for year round use using rainfall based closure criteria will help the agency achieve its purpose and need to provide for OHV recreation while protecting resources on forest-wide or regional basis. By redirecting historic OHV use on other parts of the Tahoe NF to the Foresthill OHV Area during winter months the Forest will realize environmental benefits to other parts of the unit where ingress and egress is not as manageable nor practical and said use is more casual or dispersed.

BRC understands that there are several trail segments that should be hardened to handle the year round OHV recreation. However, BRC believes that viewing the Foresthill OHV Area in a state-wide or regional context will support those trail treatments as the unit fulfills its role in the destination OHV area matrix.

## **2 – DESIGNATE ADDITIONAL OPEN OHV AREAS**

Based on a more accurate agency interpretation of BRC's comment letter on the NOI and its proposed Alternatives E and F, BRC urges the agency to designate the Eureka Diggings, Greenhorn OHV Area, and other appropriate sites as Open Areas with use limited to existing routes or where cross-country travel is allowed.

### 3 – DESIGNATE ADDITIONAL EXPERT LEVEL SINGLE TRACK OR SLOW SPEED 4WD OPPORTUNITIES

DISCUSSION: BRC requests the agency to again review site-specific comments submitted by local interests regarding the inclusion of historic expert level user motorcycle or 4WD routes, or conduct a specific workshop with users groups on this topic. BRC believes the agency may not appreciate said routes in a regional context where the Forest currently affords the public a unique high-quality and expert level trail experience not found elsewhere in Region 5. Implicit in our NOI comments regarding 4WD opportunities should also be the agency's ability to provide for some level of winter snow 4WD recreation. BRC understands the management challenges of such snow-based wheeled recreation. However in a regional context such 4WD recreation is an important and historic use feature of the Forest.

At a minimum - designate the Fordyce Trail for year round use.

### 4 - DESIGNATION OF MORE USER ROUTES

Using a more accurate agency interpretation of designating user routes in BRC's Proposed Alternative's E (existing use) and F (future use), BRC urges the agency to designate at least the 282.8 miles of additional motorized trails in Alternative 5 (**Alt. F's future condition should have substantially more miles than 282.8 miles**) vs. the 70.3 miles of motorized trails in Alternative 6. BRC believes that modification of additional trails to Alternative 5 would more correctly reflect historic public use on those affected routes.

Again at the public DEIS meetings, the agency related to the attendees that the Forest has approximately 1,400 miles of historic user routes. In Alternative 5, the agency only identifies 282.8 miles of user routes brought forth to the Forest – **by local or state organizations such as the High Sierra Motorcycle Club, Friends of Greenhorn, CERA, AMA D36, Friends of Fordyce, CORVA, Friends of Tahoe Forest Access, Friends of Foresthill, CA4WDC, Friends of the Rubicon, etc.** - as important OHV opportunities. BRC believes the agency may have overlooked a significant number said user routes and the number of motorized trails added to the National Forest Transportation System should be significantly higher in modified/revised Alternative 5.

### 5 – ADDITIONAL MIXED USE DESIGNATIONS

Rattlesnake Road – This is an important connector or corridor that provides OHV access in the Cisco Grove area. It is a vital element in providing safe and legal OHV access to the Forest. Local clubs and users may bring forth additional roads that should be designated as mixed use. BRC urges the agency to review Rattlesnake Road and other roads identified by public comment.



## **6 – ADDITIONAL ISSUES**

BRC believes the public will bring forth additional comments during the DEIS process arguing for additional issues including dispersed camping, winter use, access for hunters, and other topics that are equally important and should be considered in a modified Alternative 5.

## **CONCLUSION**

BRC believes the DEIS is seriously flawed. However, BRC believes the agency could have the basic foundation for a sustainable motorized travel management program by developing and adopting a modified/revised Alternative 5 as the preferred alternative. Again, BRC urges the agency to consider our suggested modifications – and other stakeholder proposals - to a modified/revised Alternative 5.

BRC appreciates this opportunity to be involved in the public planning process on behalf of its many members who enjoy recreation in the Tahoe National Forest and related units of the National Forest System. Please contact me if you have questions or wish to discuss any aspect of these comments or the ongoing designation process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Don', with a long, sweeping horizontal line extending to the right.

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